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MAR 24 AM 11:08
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY

Name MORRIS Sr. MELVIN L
(Last) (First) (Initial)

Prisoner Number F-03818

Institutional Address P.O. Box 950, Folsom, CA 95763

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MELVIN LEE MORRIS Sr

(Enter the full name of plaintiff in this action.)

vs.

MATTHEW KRAMER, Warden,
Folsom State Prison,

(Enter the full name of respondent(s) or jailor in this action)

Case No. 1579
(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

(PR)

Read Comments Carefully Before Filling In

When and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainers), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

ALAMEDA COUNTY SUPERIOR COURT, FREMONT

Court

Location

- (b) Case number, if known 137960

- (c) Date and terms of sentence 10-13-05 - 10 YEARS

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes X No

Where?

Name of Institution: FOLSOM STATE PRISON

Address: P.O. Box 950, Folsom, CA 95763

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

(PROBATION VIOLATION) H+S #11352(A)

Preliminary Hearing: 04/01/2019 10:00 AM Yes X No

Motion to Suppress: Yes / No

Guilty _____ Not Guilty _____ Nolo Contendere X

Any other plea (specify) _____

Jury _____ Judge alone _____ Judge alone on a transcript _____

6. Did you testify at your trial? Yes _____ No _____

(a) Arraignment Yes X No

(b) Preliminary hearing Yes X No

(c) Time of plea Yes X No

(d) Trial Yes X No

(e) Sentencing Yes X No

(f) Appeal Yes X No

(g) Other post-conviction proceeding Yes _____ No X

8. Did you appeal your conviction? Yes X No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes X No

Year: 07 Result: DENIED

Supreme Court of California Yes X No

Year: 07 Result: DENIED

Any other court Yes X No

Year: 07 Result: DENIED

(b) If you appealed, were the grounds the same as those that you are raising in this

petition?

Yes X No

(c) Was there an opinion?

Yes No X

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes X No

If you did, give the name of the court and the result:

COURT OF APPEALS, FIRST APPELLATE DISTRICT,
DIVISION - FIVE

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes X No

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: CA. SUPERIOR COURT (AHMEDA Co.)

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

a. TRIAL COURT FAILED TO GRANT TIME CREDITS

b. TRIAL COURT ERRORED IN STATING REVOCATION HEARING RESULTS

c. TRIAL ATTORNEY INCOMPETENT

d.

Result: DENIED W/ERRORED TIME CREDIT CORRECTION Date of Result: 3-27-07

II. Name of Court: CA. COURT OF APPEAL - FIRST DISTRICT - DIV. FIVE

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

a. TRIAL COURT ERROR IN STATING REVOCATION HEARING RESULTS

b. TRIAL ATTORNEY INCOMPETENT

c. TRIAL COURT WITHHELD TRANSCRIPTS

d. _____

Result: DENIED ^{W/ORDER GRANTING} TRANSCRIPTS Date of Result: 07-13-07

III. Name of Court: CA. SUPREME COURT

Type of Proceeding: PETITION FOR WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

a. TRIAL COURT ERRORED IN STATING REVOCATION HEARING RESULTS

b. _____

c. _____

d. _____

Result: DENIED Date of Result: 01-23-08

IV. Name of Court: CA. COURT OF APPEALS-1ST DISTRICT-DIV. FIVE

Type of Proceeding: WRIT OF HABEAS CORPUS

Grounds raised (Be brief but specific):

a. INEFFECTIVE COUNSEL

b. _____

c. _____

d. _____

Result: DENIED Date of Result: 12-21-07

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes _____ No X

Name and location of court: _____

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to

support each claim. For example, what legal right or privilege were you denied? What happened?

Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: INEFFECTIVE ASSISTANCE OF COUNSEL

6
7 Supporting Facts: TRIAL ATTORNEY DID NOT INVESTIGATE COURT CLAIM OF PETITIONER
8 WAIVING TIME CREDITS THAT EXTENDED PROBATION, OR CHALLENGING COURTS
9 FAILURE TO HOLD REVOCATION HEARING IN DUE PROCESS.
10 FURTHER COUNSEL DID NOT ARGUE VIOLATION OR OFFER CONTRARY EVIDENCE

11 Claim Two: REVOCATION OF PETITIONERS PROBATION CONSTITUTED
12 A VIOLATION OF FEDERAL DUE PROCESS

13 Supporting Facts: TRIAL COURT FAILED TO ADVISE PETITIONER OF HIS
14 RIGHT TO A FORMAL HEARING - THERE WAS NO NOTICE OF CLAIMED
15 VIOLATION & EVIDENCE - PETITION TO REVOKE PROBATION ALLEGE
16 ONE GROUND BUT PROBATION REVOKED ON ANOTHER GROUND

17 Claim Three: _____

18
19 Supporting Facts: _____

20
21
22
23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 _____
26 _____
27 _____
28 _____

1 List, by name and citation only, any cases that you think are close factually to yours so that they
 2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
 3 of these cases:

4 HYMAN V. AIKEN, 824 F.2d 1405 (4th Cir. 1987) - McQUEEN V. SWENSON 498 F.2d
 5 207 (8th Cir. 1974) - STRICKLAND V. WASHINGTON, 466 U.S. 668, 104 S.Ct. 2052
 6 (1984) - MORRISSEY V. BREWER (1972) 408 U.S. 471

7 Do you have an attorney for this petition? Yes _____ No X

8 If you do, give the name and address of your attorney:

9 _____
 10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
 11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
 13 Executed on 03-18-08

14 Date

Melvin F. Morris

15 Signature of Petitioner
 16
 17
 18
 19

20 (Rev. 6/02)
 21
 22
 23
 24
 25
 26
 27
 28

Melvin L. Morris, Sr.
F-03818 INASE 115
Folsom State Prison
POB 950
Folsom, CA 95763



RECEIVED

MAR 20 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT OF CALIFORNIA
NORTHERN DISTRICT

P10 52

Clerk
U.S. District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, CA 94102-3403

LEGAL MAIL